IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2620 OF 2005

Nawaz Hamza Pathath & Anr. ...Applicants

Versus

The State of Maharashtra ...Respondent

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Mr.Amin H.Solkar for Applicants.

Mr.A.S.Gadkari, A.P.P. for Respondent.

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CORAM: A.M.KHANWILKAR, J.

APRIL 21, 2005.

P.C.

1. Heard Counsel for the parties. Perused the record.

2. The Applicants have been arrested in connection with offence registered with Cuff Parade Police Station being C.R.No.105 of 2005 punishable under Sections 465, 468, 471, 420 and 34 of the Indian Penal Code. The prosecution case is that the Applicants were found in possession of forged

Visa of Saudi Arabia. On the other hand, the Applicants claim that they were given passport along with Visa issued by the Consulate of Saudi Arabia by one Mujeeb, resident of Mallapuram, Kerala. After receipt of the passport and the said Visa, they approached Akbar Travels, a IATA Ticketing Agency, who issued them tickets and at the same time, expressed doubts about the genuineness of the Visa appended to the passport and advised the Applicants to get the same verified from the Consulate. On being so informed, the Applicants, in turn, approached the Consulate for verification of the Visa held by them. The Applicants, instead, have been arrested in connection with the offence of forgery and cheating and using the forged documents as referred to above. The stand taken on behalf of the Applicants is probable.

3. If the Applicants had secured forged Visa or had knowledge that the same was forged, they would not have on their own approached the Consulate for the verification. Learned A.P.P., on the other hand, contends that the Applicants must

have taken chance to get the Visa verified from the Consulate. That possibility cannot be ruled out at this stage, as investigation is going on. The fact that co-accused Mujeeb is not traceable, can be no basis to detain the Applicants, unless some incriminating material was traced at the instance of the Applicants.

4. For the nature of offence and the circumstances in which, the Applicants have claimed to have been falsely implicated, coupled with the fact that the Applicants have now been remanded to judicial custody and no other incriminating material is forthcoming, in my opinion, the Applicants ought to be released on bail, but by imposing strict conditions on the following terms:

(a) The Applicants are directed to be released on bail in connection with C.R.No.105/2005 registered with Cuff Parade Police Station on executing personal bond in the sum of Rs.20,000/- (Rupees Twenty Thousand only) each with two local sureties in the like amount.

(b) Applicants shall report to the Investigating Officer daily from the date of release between 11.00 a.m. to 2.00 p.m. at the concerned Police Station or at such other time and place, as may be required by the Investigating Officer for a period of ten days and thereafter, twice a week on Wednesday and Sunday till the filing of the charge-sheet.

. This condition is imposed, as Applicants have no fixed place of residence in Mumbai and investigation is also in progress.

(c) The Applicants shall not influence the prosecution witnesses nor shall tamper with the prosecution evidence in any manner whatsoever.

(d) The Applicants shall co-operate for the early disposal of the trial. If the Trial Court is of the opinion that the Applicants are, in any manner, responsible for causing delay in disposal of the trial, that fact be recorded in the Roznama, which can be a ground for cancellation of bail.

5. Application disposed of accordingly.

A.M.KHANWILKAR, J.